UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/538,794	06/13/2005	Ronald J. Craswell	115710-161648	4320

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EXAMINER
DANIEL JR, WILLIE J

ART UNIT	PAPER NUMBER
2617	

MAIL DATE	DELIVERY MODE
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

	Application No.	Applicant(s)
Office Action Summary	10/538,794	CRASWELL ET AL.
	Examiner	Art Unit	
	WILLIE J. DANIEL JR	2617	

-- *The MAILING DATE of this communication appears on the cover sheet with the correspondence address* --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on <u>07 August 2009</u>.
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) <u>1-29</u> is/are pending in the application.
   4a) Of the above claim(s) <u>6-9 and 13-29</u> is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) <u>1-5 and 10-12</u> is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
    a) ☐ All b) ☐ Some * c) ☐ None of:
    1. ☐ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. _____.
    3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

1. This action is in response to applicant's amendment filed on 07 August 2009. **Claims 1-5**

   and 10-12 are now pending in the present application and **claims 6-9 and 13-29** are non-

   elected (or withdrawn). This office action is made **Non-Final**.

Election/Restrictions

2. Applicant's election without traverse of invention in the reply filed on 07 August 2009 is

   acknowledged.

Double Patent Claiming

3. Applicant is advised that should **claim 11** be found allowable, **claim 12** will be objected to

   under 37 CFR 1.75 as being a substantial duplicate thereof. When two claims in an

   application are duplicates or else are so close in content that they both cover the same thing,

   despite a slight difference in wording, it is proper after allowing one claim to object to the

   other as being a substantial duplicate of the allowed claim. See MPEP § 706.03(k).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness

   rejections set forth in this Office action:

   > (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in
   > section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are
   > such that the subject matter as a whole would have been obvious at the time the invention was made to a person
   > having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the
   > manner in which the invention was made.

Claims 1-5 and 10-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over

Kawamata et al. (hereinafter Kawamata) **(US 6,820,259 B1)** in view of **Herschberg et al.**

(hereinafter Herschberg) **(US 2003/0022657 A1)**.

Regarding **claim 1**, Kawamata discloses a wireless computing apparatus (e.g.,

terminal apparatus 1250, 150) (see col. 10, lines 44-50; Figs. 1-2 & 12) having:

a processor (e.g., terminal side control unit 180) (see col. 11, lines 47,62-64; Figs. 2 &

12); and

a memory (e.g., navigation unit 195) comprising computer executable instructions which,

when executed are operative to (see col. 3, lines 5-13,30-33; col. 11, lines 47-51; Figs. 2 &

12), where the software of the navigation unit is updated:

request available updates (see col. 10, lines 61-63; col. 11, lines 58-61; col. 12, lines 35-

40; Figs. 13 'ref. 1305', 16 'ref. 1610');

receive an update catalog (e.g., software group) for available updates (see col. 13, lines

24-28; Fig. 18),

wherein said updates are selected from the group (e.g., software group) consisting of

discretionary updates and mandatory updates (e.g., software group necessary) (see col. 13,

lines 15-23,46-51; Figs. 7 & 18);

receive any of said mandatory updates (see col. 13, lines 15-23,46-51; Figs. 7 & 18);

install any of said mandatory updates (see col. 13, lines 46-51; col. 13, line col. 14, lines

12-16; Figs. 7, 15 'ref. 1515', & 18). Kawamata does not specifically disclose having the

feature(s) the group consisting of discretionary updates and mandatory updates; depict

representations of any relevant discretionary updates in a selectable manner. However, the

examiner maintains that the feature(s) the group consisting of discretionary updates and

mandatory updates; depict representations of any relevant discretionary updates in a

selectable manner was well known in the art, as taught by Herschberg.

In the same field of endeavor, Herschberg discloses the feature(s) the group

consisting of discretionary updates (e.g., optional applications) and mandatory updates (e.g.,

required applications) (see pg. 1, [0009, lines 7-13]; pg. 2, [0086, 0088, 0093]; Fig. 1a);

depict representations of any relevant discretionary updates in a selectable manner (see

pg. 1, [0009, lines 7-13]; pg. 10, [0181, lines 1-4]; Figs. 1a & 46c).

Therefore, it would have been obvious to one of ordinary skill in the art at the time

the invention was made to combine the teachings of Kawamata and Herschberg to have the

feature(s) the group consisting of discretionary updates and mandatory updates; depict

representations of any relevant discretionary updates in a selectable manner, in order to

provide a system and method for managing application provisioning to one or more wireless

devices, as taught by Herschberg (see pg. 1, [0005, lines 1-2]).

Regarding **claim 2**, Kawamata discloses every limitation claimed as applied above in

claim 1. Kawamata does not specifically disclose having the feature(s) operative to select a

desired discretionary update from said depicted relevant discretionary updates; and obtain

said desired discretionary update. However, the examiner maintains that the feature(s)

operative to select a desired discretionary update from said depicted relevant discretionary

updates; and obtain said desired discretionary update was well known in the art, as taught by

Herschberg.

Herschberg further discloses the feature(s) operative to select a desired discretionary

update (e.g., optional applications) from said depicted relevant discretionary updates (e.g.,

optional applications) (see pg. 1, [0009, lines 7-13]; pg. 2, [0086, 0088, 0093]; pg. 10, [0181,

lines 1-4]; Figs. 1a & 46c); and

obtain said desired discretionary update (see pg. 10, [0181, lines 11-13]; Fig. 46c).

Therefore, it would have been obvious to one of ordinary skill in the art at the time

the invention was made to combine the teachings of Kawamata and Herschberg to have the

feature(s) operative to select a desired discretionary update from said depicted relevant

discretionary updates; and obtain said desired discretionary update, in order to provide a

system and method for managing application provisioning to one or more wireless devices,

as taught by Herschberg (see pg. 1, [0005, lines 1-2]).

Regarding **claim 3**, Kawamata discloses every limitation claimed as applied above in

claim 2. Kawamata does not specifically disclose having the feature(s) operative to install

said obtained discretionary update. However, the examiner maintains that the feature(s)

operative to install said obtained discretionary update was well known in the art, as taught by

Herschberg.

Herschberg further discloses the feature(s) operative to install said obtained

discretionary update (e.g., optional applications) (see pg. 10, [0181, lines 11-13]; Fig. 46c).

Therefore, it would have been obvious to one of ordinary skill in the art at the time

the invention was made to combine the teachings of Kawamata and Herschberg to have the

feature(s) operative to install said obtained discretionary update, in order to provide a system

and method for managing application provisioning to one or more wireless devices, as taught by Herschberg (see pg. 1, [0005, lines 1-2]).

Regarding **claim 4**, Kawamata discloses every limitation claimed as applied above in claim 1. Kawamata does not specifically disclose having the feature(s) wherein said relevant discretionary updates are determined from a current state of the apparatus. However, the examiner maintains that the feature(s) wherein said relevant discretionary updates are determined from a current state of the apparatus was well known in the art, as taught by Herschberg.

Herschberg further discloses the feature(s) wherein said relevant discretionary updates are determined from a current state of the apparatus (see pg. 1, [0009, lines 7-13]; pg. 2, [0086, 0088, 0093]; pg. 10, [0181]; Figs. 1a & 46c).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Kawamata and Herschberg to have the feature(s) wherein said relevant discretionary updates are determined from a current state of the apparatus, in order to provide a system and method for managing application provisioning to one or more wireless devices, as taught by Herschberg (see pg. 1, [0005, lines 1-2]).

Regarding **claim 5**, Kawamata discloses every limitation claimed as applied above in claim 4. Kawamata does not specifically disclose having the feature(s) wherein said current state comprises the currently installed software on the apparatus. However, the examiner maintains that the feature(s) wherein said current state comprises the currently installed software on the apparatus was well known in the art, as taught by Herschberg.

Herschberg further discloses the feature(s) wherein said current state comprises the

currently installed software on the apparatus (see pg. 1, [0009, lines 7-13]; pg. 2, [0086,

0088, 0093]; pg. 10, [0181]; Figs. 1a & 46c).

Therefore, it would have been obvious to one of ordinary skill in the art at the time

the invention was made to combine the teachings of Kawamata and Herschberg to have the

feature(s) wherein said current state comprises the currently installed software on the

apparatus, in order to provide a system and method for managing application provisioning to

one or more wireless devices, as taught by Herschberg (see pg. 1, [0005, lines 1-2]).

Regarding **claim 10**, Kawamata discloses a method of updating data on a wireless

mobile device (e.g., terminal apparatus 1250, 150) (see col. 10, lines 44-50; col. 3, lines 5-

13,30-33; col. 11, lines 47-51; Figs. 1-2 & 12), where the software of the navigation unit is

updated, the method comprising:

requesting available updates (see col. 10, lines 61-63; col. 11, lines 58-61; col. 12, lines

35-40; Figs. 13 'ref. 1305', 16 'ref. 1610');

receiving an update catalog (e.g., software group) for available updates (see col. 13, lines

24-28; Fig. 18),

wherein said updates are selected from the group (e.g., software group) consisting of

discretionary updates and mandatory updates (e.g., software group necessary) (see col. 13,

lines 15-23,46-51; Figs. 7 & 18);

receiving any of said mandatory updates (see col. 13, lines 15-23,46-51; Figs. 7 & 18);

installing any of said mandatory updates (see col. 13, lines 46-51; col. 13, line col. 14,

lines 12-16; Figs. 7, 15 'ref. 1515', & 18). Kawamata does not specifically disclose having

the feature(s) the group consisting of discretionary updates and mandatory updates; depicting

representations of any relevant discretionary updates in a selectable manner. However, the

examiner maintains that the feature(s) the group consisting of discretionary updates and

mandatory updates; depicting representations of any relevant discretionary updates in a

selectable manner was well known in the art, as taught by Herschberg.

In the same field of endeavor, Herschberg discloses the feature(s) the group

consisting of discretionary updates (e.g., optional applications) and mandatory updates (e.g.,

required applications) (see pg. 1, [0009, lines 7-13]; pg. 2, [0086, 0088, 0093]; Fig. 1a);

depicting representations of any relevant discretionary updates in a selectable manner

(see pg. 1, [0009, lines 7-13]; pg. 10, [0181, lines 1-4]; Figs. 1a & 46c).

Therefore, it would have been obvious to one of ordinary skill in the art at the time

the invention was made to combine the teachings of Kawamata and Herschberg to have the

feature(s) the group consisting of discretionary updates and mandatory updates; depicting

representations of any relevant discretionary updates in a selectable manner, in order to

provide a system and method for managing application provisioning to one or more wireless

devices, as taught by Herschberg (see pg. 1, [0005, lines 1-2]).

Regarding **claims 11 & 12**, Kawamata discloses every limitation claimed as applied

above in claim 10. Kawamata does not specifically disclose having the feature(s) selecting a

desired discretionary update from said depicted relevant discretionary updates; and obtaining

said desired discretionary update. However, the examiner maintains that the feature(s)

selecting a desired discretionary update from said depicted relevant discretionary updates;

and obtaining said desired discretionary update was well known in the art, as taught by

Herschberg.

Herschberg further discloses the feature(s) selecting a desired discretionary update

(e.g., optional applications) from said depicted relevant discretionary updates (e.g., optional

applications) (see pg. 1, [0009, lines 7-13]; pg. 2, [0086, 0088, 0093]; pg. 10, [0181, lines 1-

4]; Figs. 1a & 46c); and

obtaining said desired discretionary update (see pg. 10, [0181, lines 11-13]; Fig. 46c).

Therefore, it would have been obvious to one of ordinary skill in the art at the time

the invention was made to combine the teachings of Kawamata and Herschberg to have the

feature(s) selecting a desired discretionary update from said depicted relevant discretionary

updates; and obtaining said desired discretionary update, in order to provide a system and

method for managing application provisioning to one or more wireless devices, as taught by

Herschberg (see pg. 1, [0005, lines 1-2]).

Conclusion

5.   Any inquiry concerning this communication or earlier communications from the

examiner should be directed to 3 whose telephone number is (571)272-7907. The examiner

can normally be reached on 8:30-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Charles Appiah can be reached on (571) 272-7904. The fax phone number for

the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent

Application Information Retrieval (PAIR) system. Status information for published

applications may be obtained from either Private PAIR or Public PAIR. Status information

for unpublished applications is available through Private PAIR only. For more information

about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on

access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-

9197 (toll-free). If you would like assistance from a USPTO Customer Service

Representative or access to the automated information system, call 800-786-9199 (IN USA

OR CANADA) or 571-272-1000.

/WJD,Jr/

WJD,Jr
08 September 2009

/Charles N. Appiah/
Supervisory Patent Examiner, Art Unit 2617